

REMARKS

Claims 18-34 currently pending in this Application. The Specification and Figures are amended with this Response, with the amended Figures being included in the attached five Replacement Drawing Sheets. Though no claims have been amended with this Response, Applicant respectfully provides the Examiner with the above listing.

Objections to the Drawings

Figures 16 and 17 are objected to for inconstancies. In response, Applicant respectfully amends the Specification and submits Replacement Drawing Sheets 1-5.

Rejections under 35 U.S.C. §103(a)

Claims 18, 19, 22, 24-26, and 28 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 5,243,800 to Olbrich (“Olbrich” hereinafter) in view of United States Patent No. 4,534,147 to Cristell (“Cristell” hereinafter) and French Patent No. 2,568,730 to Linan (“Linan” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant’s claim 18 recites *inter alia*:

“wherein the mounting plate of the profile is divided into sub-lengths by breakable or precut transverse lines coinciding with transverse slots formed through the gutters so as to form independent ducts in the profile,

the system further comprising a plastic finishing profile having fixing means for clipping it onto the gutters.”

None of Olbrich, Cristell, and Linan, taken alone or in combination, teach a mounting plate of a profile that is divided into sub-lengths by breakable or precut transverse lines coinciding with transverse slots formed through the gutters so as to form independent ducts in the profile. On the contrary, neither Olbrich nor Cristell teach any such lines at all, and Linan teaches a mounting plate with no transverse slots and *longitudinal* lines 108. With reference to these longitudinal lines 108, Applicant further asserts that these lines 108 are also not taught to be breakable precut dividers of the plate due to the flexible material that comprises the plate. This flexible material renders the breaks or cuts in the plate unnecessary due to the ease of cutting this material at any region of the plate (see oblique cut 7 at p. 5, lns. 5-8 and Figure 3).

Furthermore, none of Olbrich, Cristell, and Linan, taken alone or in combination, teach a plastic finishing profile that has a fixing means for clipping onto the gutters. Instead Olbrich teaches a capping 4 that clips onto retaining strips 3 (not gutters), Cristell teaches a cover 18 that is hingedly connected to the base 16 at one edge and locked to the base 16 at the opposite edge (i.e. not clipped to the gutter), and Linan does not teach any plastic finishing profile to be clipped at all (i.e. because the channel of Linan is formed only of a single profile, there is no finishing profile to be clipped).

For at least the above reasons, Applicant respectfully submits that the proposed combination of Olbrich, Cristell, and Linan does not teach every element of Applicant's claim 18, or claims 19, 22, 24-26, and 28 that depend therefrom. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 18, 19, 22, 24-26, and 28 with respect to the proposed combination of Olbrich, Cristell, and Linan. Since the proposed combination of Olbrich, Cristell, and Linan fails to teach or suggest all of the limitations of claims 18, 19, 22, 24-26, and 28, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine or modify the references, or a reasonable likelihood of success in forming the claimed invention by combining or modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Application additionally and respectfully points out that Ulrich should not be specifically

combined with Linan. The intended purpose of Olbrich is to provide an installation duct for utility lines, *particularly for pipes* (Abstract of Ulrich), such as heating pipes (column 3, line 6 of Ulrich). However, the wings of Linan are taught to comprise a flexible material that is used with cables, not pipes, wherein the flexible material allows a user to move the Linan wings away from one another in a manner that opens a channel for insertion of a cable. This material, due of its flexible nature, would not be suitable for securing heavier pipes, like the heating pipes intended in Ulrich. In fact, the relatively heavy weight of the Ulrich pipes (as compared with the weight of the cables of Linan) would cause the flexible wings/channel of Linan to give, open, and allow the pipes to fall to the ground. Accordingly, if one were to combine the flexible wings of Linan with the device taught in Ulrich, the Ulrich device would be unsuitable for its intended purpose of supporting pipes. Thus, as is stated MPEP 2143.01V, a combination of Ulrich with Linan would be improper.

Still further, in addition to the above discussed elements of claim 18, Applicant respectfully asserts that dependent claims 19, 25, 26, 28 include elements that are not taught by the proposed combination of Ulrich, Cristell, and Linan.

Referring to claim 19, Applicant respectfully asserts that the proposed combination of Ulrich, Cristell, and Linan does not teach gutter openings that open “laterally.”

Referring to claim 25, Applicant respectfully asserts that the proposed combination of Ulrich, Cristell, and Linan does not teach clips for securing contents of a gutter. Such a feature allows easy insertion of a pipe into a gutter, while also ensuring retention of the pipe to the gutter.

Referring to claim 26, Applicant respectfully asserts that the proposed combination of Ulrich, Cristell, and Linan does not teach the finishing profile to be clipped to outer wings of the gutter. Instead, the prior art that teaches a finishing profile teaches said profile to be attached to a means distinct from the gutter.

Referring to claim 28, Applicant respectfully asserts that the proposed combination of Ulrich, Cristell, and Linan does not teach gutters provided on the finishing profile.

Claims 29, 33, and 34 have been rejected under 35 U.S.C. §103(a) as being obvious over Olbrich, in view of Cristell, in view of Linan, in view of United States Patent No.4,730,342 to Schafer (“Schafer” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 29, 33, and 34 depend from claim 18. As such, for at least the reasons set forth above, the proposed combination of Olbrich, Cristell, and Linan due not teach every element of claims 29, 33, and 34. Since, Schafer does not remedy the above discussed deficiencies of Olbrich, Cristell, and Linan a proposed combination of Olbrich, Cristell, Linan, and Shafer also does not teach every element of Applicant’s claims 29, 33, and 34. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 29, 33, and 34 with respect to the proposed combination of Olbrich, Cristell, Linan, and Shafer. Since the proposed combination of Olbrich, Cristell, Linan, and Shafer fails to teach or suggest all of the limitations of claims 29, 33, and 34, clearly, one of ordinary skill at the time of Applicant’s invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

In addition, with specific reference to claim 29, Applicant respectfully points out that the embodiment of Shafer that teaches a base profile and finishing profile (see Figure 4 of Shafer only) teaches a partition 21a that forms a retaining means with a wall 21b and does not delimit an

open channel for receiving a conductor.

Claim 31 has been rejected under 35 U.S.C. §103(a) as being obvious over Olbrich, in view of Cristell, in view of Linan, in view of United States Patent No.3,365,854 to Gallo (“Gallo” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claim 31 depends from claim 18. As such, for at least the reasons set forth above, the proposed combination of Olbrich, Cristell, and Linan due not teach every element of claim 31. Since, Gallo does not remedy the above discussed deficiencies of Olbrich, Cristell, and Linan a proposed combination of Olbrich, Cristell, Linan, and Gallo also does not teach every element of Applicant’s claim 31. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claim 31 with respect to the proposed combination of Olbrich, Cristell, Linan, and Gallo. Since the proposed combination of Olbrich, Cristell, Linan, and Gallo fails to teach or suggest all of the limitations of claim 31, clearly, one of ordinary skill at the time of Applicant’s invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claim 32 has been rejected under 35 U.S.C. §103(a) as being obvious over Olbrich, in view of Cristell, in view of Linan, in view of French Patent No.1,319,291 to 3M (“3M” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing

that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claim 32 depends from claim 18. As such, for at least the reasons set forth above, the proposed combination of Olbrich, Cristell, and Linan due not teach every element of claim 32. Since, 3M does not remedy the above discussed deficiencies of Olbrich, Cristell, and Linan a proposed combination of Olbrich, Cristell, Linan, and 3M also does not teach every element of Applicant's claim 32. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claim 32 with respect to the proposed combination of Olbrich, Cristell, Linan, and 3M. Since the proposed combination of Olbrich, Cristell, Linan, and 3M fails to teach or suggest all of the limitations of claim 32, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
CANTOR COLBURN LLP

By: /Daniel R. Gibson/
Daniel R. Gibson
Registration No. 56,539
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103
Telephone: 860-286-2929
Facsimile: 860-286-0115
Customer No. 23413

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